



State of Arizona
Department of Education

Tom Horne
Superintendent of
Public Instruction

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Corresponding USDA Memo SP 02-2007

MEMORANDUM

TO: School Health & Nutrition Program Sponsors

FROM: Mary Szafranski, Deputy Associate Superintendent
Arizona Department of Education, Health and Nutrition Services

Katrina Klatt, NSLP Nutrition Director
Arizona Department of Education, Health and Nutrition Programs

DATE: February 23, 2007

SUBJECT: Farm-to-School Federal Procurement Regulations

Original Signed

This memo is to address the numerous inquiries the past several weeks concerning a document produced by the Harrison Institute for Public Law at Georgetown University addressing the purchase of products from local farmers. The document expresses the view that Congress, as part of the 2002 Farm Bill, supports geographical preferences in purchases made for school food service programs.

Contrary to this interpretation, Federal procurement regulations at 7 CFR 3016.60(c) clearly prohibit the use of State or local geographic preferences. All purchases made with nonprofit school food service account funds are to be made competitively, consistent with Federal laws and regulations.

Further discussion of this issue can be found in Q&A's published on April 29, 2005 in a USDA memo specifically addressing the question of whether State laws exempt the purchase of perishable products from procurement rules. To which USDA responds, "State or local laws may not exempt SFA's from following the Federal requirements of the National School Lunch Program. When purchasing perishable products such as produce and dairy, one effective approach is to use a fixed price contract with economic adjustment for the product and fixed fee for the delivery. This form of contract provides for upward and downward revisions of the stated contract price based upon specified events using indexes or standards, such as the CPI or Daily Market Measures. This allows suppliers to protect against wide price fluctuations in the market, thereby providing more competitive and favorable bids for SFA solicitations." This memo as well as another one on this subject dated May 20, 2003 can be found at the USDA website: www.fns.usda.gov/cnd/Governance/policy.htm.

Please contact the Arizona Department of Education, Health and Nutrition Programs for further clarification or questions pertaining to this issue at 602-542-8700.

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